IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERTO VILLAREAL,

No. C 11-04235 CW (PR)

Petitioner,

ORDER OF TRANSFER

v.

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GARY SWARTHOUT, Warden,

Respondent.

Petitioner, a state prisoner, has filed a <u>pro se</u> petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging as a violation of his constitutional rights the denial of parole by the California Board of Parole Hearings. Petitioner has filed an application for leave to proceed <u>in forma pauperis</u>.

A petition for a writ of habeas corpus filed by a state prisoner in a State that contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. See 28 U.S.C. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. id. Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of See Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. conviction. Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). But if a habeas petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credit claims, the district of confinement is the preferable forum. See Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989).

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Petitioner is incarcerated at California State Prison -
Solano, which lies within the venue of the Eastern District of
California. <u>See</u> 28 U.S.C. § 84(b). Because Petitioner challenges
the execution of his sentence, the Court hereby ORDERS that
pursuant to 28 U.S.C. § 1404(a) and Habeas L.R. 2254-3(b), and in
the interests of justice, this petition be TRANSFERRED to the
United States District Court for the Eastern District of
California.

IT IS SO ORDERED.

Dated: 9/7/2011

CLAUDIA WILKEN

UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT 1 FOR THE 2 NORTHERN DISTRICT OF CALIFORNIA 3 ROBERTO VILLAREAL, 4 Case Number: CV11-04235 CW Plaintiff, 5 **CERTIFICATE OF SERVICE** v. 6 GARY SWARTHOUT et al, 7 Defendant. 8 9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California. 10 That on September 7, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said 11 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located 12 in the Clerk's office. 13 14 Roberto Villareal C-35919 15 California State Prison-Solano 2100 Peabody Rd. 16 Vacaville, CA 95696 17 Dated: September 7, 2011 Richard W. Wieking, Clerk 18 By: Nikki Riley, Deputy Clerk 19 20 21 22 23 24